

THE FIRST MARBLEHEAD CORP. 30(b)(6)
TASHANNA B. GOLDEN vs NAT'L COLLEGIATE

November 20, 2019

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1	UNITED STATES BANKRUPTCY COURT	
2	Eastern District of New York	
3	In re Tashanna B. Golden f/k/a Tashanna B.	
4	Pearson, Case No. 16-40809-ess	
5	Debtor Chapter 7	
6	Adv. Proc. No. 17-01005-ess	
7	Tashanna B. Golden f/k/a Tashanna B. Pearson	
8	Plaintiff	
9	V.	
10	Nat'l Collegiate Student Loan Trust 2005-3,	
11	et al.,	
12	Defendants	
13	~~~~~	
14	30(B)(6) DEPOSITION OF THE FIRST MARBLEHEAD	
15	CORPORATION THROUGH CARLIN GOLDEN	
16	NOVEMBER 20, 2019	
17	1:10 P.M.	
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19	K&L GATES	
20	1 LINCOLN STREET	
21	BOSTON, MASSACHUSETTS 02111	
22		
23		
24	Stephanie Mussen, Professional Shorthand Reporter	
	Page 2	Page 4
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1 Q. In that time frame, say, between 2001 and 2 2005, were borrowers able to submit loan 3 applications online? 4 A. Yes. 5 Q. Was that through the website teri.org? 6 A. I believe so. 7 Q. What other means were available to 8 borrowers to submit loan applications? 9 MR. FONTENELLI: Objection. 10 A. They could submit a paper application. 11 Q. Can you tell us in that time frame, say, 12 between 2001 and 2005, what percentage of 13 applications were submitted online versus paper 14 applications? 15 A. I don't know exactly. I know that the 16 online application, the volume was much higher than 17 the paper applications. 18 Q. Would it be fair to state that the online 19 application process was the preferred method by 20 borrowers, if you know? 21 A. Yes. Actually, I have to go back. We did 22 actually have it -- for a period, you could call and 23 put your application in as well, so we could take it 24 by phone.	Page 13 1 A. So once the application was submitted, we 2 would pull a credit report in most instances 3 depending on the program guidelines. The system -- 4 the credit decision system would make a decision or 5 send the loan to review. So basically, it was 6 credit criteria that had to be met. If they passed 7 the credit criteria, they would have to send in 8 documentation such as income documentation. 9 Q. You said the credit decision system? 10 A. Yes. 11 Q. There was essentially -- tell me if I'm 12 wrong here -- kind of an application that 13 automatically reviewed borrower's applications? 14 A. Correct. 15 Q. By that, I mean a computer application. 16 A. Exactly. 17 Q. Did the criteria that the borrowers were 18 required to submit include information about other 19 student loans that they had applied for or received 20 for the same school year? 21 MR. FONTENELLI: Objection. 22 A. On the application, no. 23 Q. Was there any additional criteria that was 24 requested of the borrowers after their application
Page 14 1 Q. Online, paper, and call? 2 A. Correct. 3 Q. But the online application process was 4 used -- and I understand you can't give us an exact 5 figure, but most of the time by the borrowers? 6 A. I couldn't say most of the time. I don't 7 know the actual numbers. 8 Q. How did the borrower submit paper 9 applications? 10 A. They would mail them in and maybe fax. 11 Probably fax as well. It's been a while. 12 Q. They could also do it by way of phone? 13 A. Correct. 14 Q. I'm going to jump ahead a little bit here. 15 Let me ask you this: Were the applications 16 essentially all the same; that is the online 17 application, the paper application, and the call-in 18 applications requested all of the same information? 19 A. The criteria was the same. 20 Q. The criteria that the borrower had to 21 submit? 22 A. Correct. 23 Q. What type of criteria did the borrower have 24 to submit?	Page 16 1 that requested information about other loans that 2 the borrower had obtained for that particular school 3 year? 4 MR. FIALKOW: Just objection. Are 5 you speaking of applications generally, or any 6 particular types of applications at this point? I 7 just want the answers to be accurate. 8 Q. Let me backtrack. A second ago, you said 9 that the -- please correct me if I'm wrong, the 10 initial criteria that the borrower had to submit did 11 not include whether or not the borrower had other 12 student loans for that particular year? 13 MR. FONTENELLI: Objection. 14 A. So the application data that was submitted 15 did not require them to enter anything about other 16 loans or sources of funding. 17 Q. Was there anything following the initial 18 application that a borrower submitted whereby FMER 19 would ask for information related to other loans 20 that the borrower had? 21 MR. FONTENELLI: Objection. 22 A. We didn't -- so let's see. So we didn't 23 request from the borrower anything about other loans 24 that they had.

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<p>1 Q. Correct. After the initial application was 2 submitted by the borrower.</p> <p>3 MR. FONTENELLI: Objection.</p> <p>4 A. It would depend on the loan program.</p> <p>5 Q. What do you mean by that?</p> <p>6 A. So for a school-certified loan, the school 7 would certify the cost of attendance less than any 8 other types of funding sources. A direct consumer 9 loan, we would obtain enrollment verification but 10 also check our system to confirm that they didn't 11 exceed what was documented in the program guidelines 12 for the year.</p> <p>13 Q. Okay. For purposes of having a clean 14 record, when you say "school-certified loan," what 15 do you mean by that?</p> <p>16 A. That means once the borrowers received -- 17 once the borrowers submitted all their 18 documentation, we were good from the borrower's 19 perspective and received all the underwriting 20 documentation needed and the loan was ready to 21 progress, meaning we wanted to approve it, we send a 22 certification request to the school, and the school 23 would actually have to certify the student's need.</p> <p>24 Q. And the school's certification to FMER</p>	<p>1 certify the balance.</p> <p>2 Q. As part of the school certification 3 process?</p> <p>4 A. Correct, but that would be up the 5 individual school.</p> <p>6 Q. The other, I guess, you could say subset of 7 loans are what we refer to as direct-to-consumer 8 loans. Are you familiar with that term?</p> <p>9 A. Correct.</p> <p>10 Q. For a direct-to-consumer loan, when -- 11 maybe you can just tell me what a direct-to-consumer 12 loan is.</p> <p>13 A. A direct-to-consumer loan was a loan for 14 educational purposes that was funded directly to the 15 borrowers.</p> <p>16 Q. Meaning the disbursement was made directly 17 to the borrowers?</p> <p>18 A. Correct.</p> <p>19 Q. And for a direct-to-consumer loan that is 20 disbursed directly to the borrowers, generally, what 21 type of information did the -- did FMER obtain 22 before disbursing that loan?</p> <p>23 MR. FONTENELLI: Objection.</p> <p>24 A. They -- so they would have to submit an</p>
<p style="text-align: center;">Page 18</p> <p>1 included the cost of attendance for the school less 2 other loans that that borrower had obtained?</p> <p>3 MR. FONTENELLI: Objection.</p> <p>4 A. You would have to look at program 5 guidelines to confirm exactly what the school was 6 certifying.</p> <p>7 Q. But the school was certifying what the cost 8 of attendance was; is that correct?</p> <p>9 MR. FONTENELLI: Objection.</p> <p>10 A. Correct.</p> <p>11 Q. I understand it depends upon the particular 12 loan program, but generally speaking, did the school 13 certification also let FMER know what other loans 14 the borrower had obtained for that school year?</p> <p>15 MR. FONTENELLI: Objection.</p> <p>16 A. The school would make the determination on 17 what the cost of attendance was for that year based 18 on what's in the program guidelines.</p> <p>19 Q. To your understanding, would the school 20 make that decision -- that determination based upon 21 other loans that the student had for that year?</p> <p>22 A. My understanding is if they had any other 23 types of funding sources for the year, that would be 24 subtracted from the cost, and they would only</p>	<p style="text-align: center;">Page 20</p> <p>1 application online. We would do the credit 2 underwriting based on all the credit criteria. We'd 3 obtain income documentation from the creditworthy 4 applicants, potentially ID documentation, 5 identification, driver's license, things like that, 6 and enrollment verification.</p> <p>7 Q. For direct-to-consumer loans, was the 8 enrollment verification obtained from the school or 9 from the borrower?</p> <p>10 A. From the borrower.</p> <p>11 Q. For these types of direct-to-consumer 12 loans, was the borrower ever required to submit 13 information about other loans than he or she had for 14 that particular school year?</p> <p>15 MR. FONTENELLI: Objection.</p> <p>16 A. The borrower was not required.</p> <p>17 Q. Did FMER do any type of research, 18 investigation, something along those lines to 19 determine whether or not the borrower had other 20 loans for that particular school year?</p> <p>21 MR. FONTENELLI: Objection.</p> <p>22 A. Internally we did to see if it was a loan 23 that we originated.</p> <p>24 Q. Did FMER do any type of external search or</p>

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1 investigation to determine whether or not there were 2 other loans that the borrower had for that year that 3 FMER had not originated?	1 A. Not unless it was an internal originated 2 loan.
4 MR. FONTENELLI: Objection.	3 Q. I should maybe clarify that question. Any 4 external loans that the borrower had.
5 A. I don't recall.	5 A. No.
6 Q. So for example, if a borrower applied for a 7 loan through FMER and -- one of the loan programs, 8 and he or she also had a loan for that year from 9 Navient, for example -- are you familiar with 10 Navient?	6 Q. So the only information about other loans 7 that FMER had was loans that it had also originated?
11 A. Uh-huh.	8 A. Correct.
12 Q. -- would FMER know about the Navient loan?	9 Q. Ms. Golden, are you familiar with the term 10 "cost of attendance"?
13 MR. FONTENELLI: Objection.	11 MR. FONTENELLI: Objection.
14 MR. FIALKOW: You can answer if 15 you understand.	12 A. Yes.
16 Q. Let me try to rephrase it differently, 17 break it down a little bit.	13 Q. What is the cost of attendance?
18 So FMER had knowledge or knew about other 19 loans that the borrower had that it had originated?	14 MR. FONTENELLI: Objection.
20 A. Correct.	15 Q. What is your understanding of what the cost 16 of attendance means?
21 Q. So if a borrower had a loan from Navient 22 for that year, that same year, would FMER know about 23 it?	17 A. The amount it costs to go to school for a 18 period of time.
24 A. No.	19 Q. The cost of attendance is generally 20 calculated by a school year; is that fair to state?
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1 MR. FIALKOW: Just for 2 clarification, are you speaking only of the DTC 3 loans right now?	1 Q. -- or school?
4 MR. FREIBERG: Correct. We're 5 talking about the DTC loans. Thank you for that, 6 David.	2 A. In relation to these loans?
7 Q. If a borrower had -- in the same situation, 8 if a borrower had a loan from a state agency, would 9 FMER know about that other loan?	3 Q. Correct.
10 MR. FONTENELLI: Objection.	4 MR. FONTENELLI: Objection.
11 A. No.	5 A. The -- I guess the guidelines would have 6 dictated.
12 Q. If a borrower had a loan from -- a 13 federally-backed loan -- and again, we're talking 14 about the direct-to-consumer loans -- would FMER 15 know about that upon origination?	7 Q. Let me step back for one second. The 8 series of questions I was just asking you about, 9 FMER knowing of other school loans --
16 MR. FONTENELLI: Objection.	10 A. Right.
17 A. No.	11 Q. -- did that apply generally to all of the 12 loan programs that FMER was implementing in this 13 time frame of, say, 2001 to 2010?
18 Q. Would it be correct to state, and please 19 correct me if I'm wrong, but for these 20 direct-to-consumer loans, FMER did not have in its 21 possession when it disbursed the loans any 22 information about other loans that the borrowers 23 have?	14 MR. FONTENELLI: Objection.
24 MR. FONTENELLI: Objection.	15 A. So knowing -- so us knowing about external 16 loans?
Page 24	
	17 Q. Yes.
	18 A. So again, there's a distinction between 19 school channel and direct to consumer. So school 20 channel loans would -- I should say likely that 21 would have been taken into account for any loan 22 period that the school was certifying. For 23 direct-to-consumer loans, because they were direct 24 to consumer, that would not have been taken into

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<p>1 Bates-numbered 1442. There's a screen that talks 2 about why check for over-borrowing. And by the way, 3 Ms. Golden, this document we're looking at, if I'm 4 reading correctly, it's a loan origination training 5 presentation --</p> <p>6 A. Correct.</p> <p>7 Q. -- for the analysts to use?</p> <p>8 A. Yes.</p> <p>9 Q. In the screen, it talks about why check for 10 over-borrowing. The first thing says, "We check for 11 over-borrowing for all loans to make sure borrowers 12 are not exceeding either the annual or aggregate 13 borrowing limits."</p> <p>14 And the annual and aggregate borrowing 15 limits that you're referring to are those contained 16 in the loan program guidelines; correct?</p> <p>17 A. Yes.</p> <p>18 Q. In this period of time, June of 2005, did 19 First Marblehead check for over-borrowing to make 20 sure that the borrowers were not exceeding the 21 cost -- the published cost of attendance at their 22 schools?</p> <p>23 MR. FONTENELLI: Objection.</p> <p>24 A. We check for over-borrowing to ensure that</p>	<p>1 outside of what she's here for.</p> <p>2 Q. Let me just ask you this: When it says 3 "maintaining overall asset quality" -- "Preventing 4 over-borrowing is critical towards maintaining our 5 overall asset quality," what does that mean?</p> <p>6 MR. FIALKOW: Same objection.</p> <p>7 A. So the program guidelines document what the 8 asset should look like, and it's up to us to ensure 9 that we follow the guidelines to originate an asset 10 that's documented in the program guidelines.</p> <p>11 Q. If over-borrowing occurs, is that -- that 12 was considered a processing error -- a serious 13 processing error?</p> <p>14 MR. FIALKOW: Objection.</p> <p>15 MR. FONTENELLI: Objection.</p> <p>16 MR. FIALKOW: You can answer.</p> <p>17 A. We were tasked with following the program 18 guidelines. Our analysts are tasked with following 19 the program guidelines, so any error they made that 20 wasn't following the program guidelines was 21 classified as probably serious.</p> <p>22 Q. Was there some way by which FMER tracked 23 the errors that were made by the analysts, the 24 processing errors?</p>
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<p>1 we're following the program guidelines.</p> <p>2 Q. But did it do an independent check to make 3 sure that the borrowers weren't borrowing more than 4 what the school says it cost to go -- as the school 5 published as its cost of attendance?</p> <p>6 MR. FONTENELLI: Objection.</p> <p>7 A. We were utilizing the -- we were checking 8 to make sure they were not exceeding what was 9 documented in the program guidelines.</p> <p>10 Q. The second bullet point says, "Preventing 11 over-borrowing is critical towards maintaining our 12 overall asset quality, which in turn has a direct 13 impact on the securitization process." What does 14 that mean?</p> <p>15 A. To me, what does that mean?</p> <p>16 Q. If you can tell us what that means in a 17 corporate capacity.</p> <p>18 MR. FIALKOW: I'm going to object 19 because I think it's related as it goes to 20 over-borrowing, but when it starts to get into the 21 securitization process, I think that's different 22 than the topics here.</p> <p>23 So if you know the answer, you can give it, 24 but if it goes to securitization, I think that's</p>	<p>1 A. Yeah. We had a quality process.</p> <p>2 Q. Okay. What was the quality process?</p> <p>3 A. The quality process was we had a quality 4 group that reviewed loans in various statuses -- I 5 don't recall, you know, what statuses -- to verify 6 that program guidelines were followed when 7 originating loans.</p> <p>8 Q. How often did that occur?</p> <p>9 A. It was ongoing. I don't exactly recall if 10 it was done daily, weekly, monthly, but it was 11 ongoing. I wasn't part of the quality group. It 12 was kind of behind the scenes, like an internal, you 13 know, quality audit.</p> <p>14 Q. Were you advised of what the audits 15 revealed?</p> <p>16 A. Yes.</p> <p>17 Q. I know this may be a difficult question to 18 answer, but generally, what did the audits reveal in 19 terms of the analysts checking for over-borrowing 20 and preventing over-borrowing?</p> <p>21 A. Honestly, it's been so long. I don't 22 recall what that -- what the quality reflected.</p> <p>23 Q. Was over-borrowing a problem?</p> <p>24 A. Not to my --</p>

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1 MR. FONTENELLI: Objection.	1 loans of \$30,000 but needed a TERI continuing
2 A. Not to my recollection, but again, it's	2 education loan, that borrower would get that loan?
3 been so long.	3 MR. FONTENELLI: Objection.
4 Q. In the next page, this is what we were	4 MR. FIALKOW: Objection.
5 talking about a moment ago, that the disbursement	5 A. Depending on what the program guidelines
6 date controlled which academic year the loan was	6 said.
7 counted towards.	7 Q. So did it -- when this was going on, did
8 A. Uh-huh.	8 FMER ever look to what the cost of attendance was at
9 Q. I'm going to ask you to take a look at the	9 the particular institution to determine whether or
10 page on the bottom that's numbered 1459.	10 not adding the continuing education loan -- the TERI
11 A. Okay.	11 continuing education loan would have bumped the
12 Q. So there were special rules for the	12 borrower above the cost of attendance?
13 continuing education loans --	13 MR. FONTENELLI: Objection.
14 A. Yeah.	14 A. So we're talking about if you had DTC loans
15 Q. -- that you described earlier?	15 at your max --
16 A. Yes.	16 Q. Yes.
17 Q. It says here, "TERI continuing education	17 A. -- and somebody came in for a TERI CEL
18 loans are considered part of the school-based" --	18 loan?
19 A. Based channel.	19 Q. Yes.
20 Q. -- "channel rules, and therefore, the TERI	20 A. Based on this and based on what most of the
21 continuing education loans would not be calculated	21 guidelines or some of the guidelines, my
22 as part of the annual direct-to-consumer limit."	22 recollection about TERI CEL, it was -- our
23 What does that mean?	23 responsibility was not to count one against the
24 A. So my recollection was TERI CEL loans, I	24 other for purposes of annual limits.
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1 believe, the -- generally speaking, the limits were	1 Q. Was FMER prohibited -- not allowed to count
2 less, the continuing education loans for TERI. So	2 the two loans together even if -- strike the
3 loans originated under the TERI CEL program would	3 question.
4 not count towards the DTC loan limit annually or	4 What you just said was FMER was allowed to
5 aggregate.	5 not count the continuing education loan towards the
6 Q. Why not?	6 annual borrowing limit?
7 MR. FONTENELLI: Objection.	7 A. For DTC.
8 A. They were different loan programs, and	8 Q. For DTC. So the person could get
9 again, that would have been outlined in the program	9 additional continuing education loan even if it
10 guidelines.	10 was -- he or she was already maxed on the DTC limit
11 Q. Was there any consideration given -- when	11 of, say, for example, \$30,000?
12 the TERI CEL loans, C-E-L loans, were not calculated	12 MR. FONTENELLI: Objection.
13 towards the direct-to-consumer limit, was there any	13 MR. FIALKOW: Objection.
14 consideration given for what the costs -- the actual	14 A. If that's what the program guidelines say.
15 costs of attendance was for the student --	15 Q. Would the borrower be able to get the TERI
16 MR. FONTENELLI: Objection.	16 continuing education loan on top of the DTC loan,
17 Q. -- for that school?	17 loan limit, even if that was more than what the
18 A. I'm sorry. I'm not following.	18 school needed or was required to pay for the
19 Q. It wasn't a very clear question. I'll try	19 education?
20 to ask it again.	20 MR. FONTENELLI: Objection.
21 So the TERI CEL limits were less than --	21 Q. What I'm getting at is --
22 A. Generally speaking.	22 A. If the guidelines don't prohibit it. We
23 Q. -- generally speaking, so if I'm reading	23 were carrying out what the guidelines reflected.
24 this correctly, if a borrower had -- already had	24 Q. If the guidelines didn't prohibit the two